

EDMONDS CITY COUNCIL APPROVED MINUTES

August 20, 2013

The Edmonds City Council meeting was called to order at 7:00 p.m. by Mayor Earling in the Council Chambers, 250 5th Avenue North, Edmonds. The meeting was opened with the flag salute.

ELECTED OFFICIALS PRESENT

Dave Earling, Mayor
Lora Petso, Council President
Strom Peterson, Councilmember
Frank Yamamoto, Councilmember
Joan Bloom, Councilmember
Kristiana Johnson, Councilmember
Adrienne Fraley-Monillas, Councilmember
Diane Buckshnis, Councilmember

STAFF PRESENT

Al Compaan, Police Chief
Jim Lawless, Assistant Police Chief
Josh McClure, Police Sergeant
Stephen Clifton, Community Services/Economic Development Director
Phil Williams, Public Works Director
Roger Neumaier, Finance Director
Carrie Hite, Parks & Recreation Director
Doug Fair, Municipal Court Judge
Jerry Shuster, Stormwater Eng. Program Mgr.
Rob English, City Engineer
Kernen Lien, Senior Planner
Jeff Taraday, City Attorney
Linda Hynd, Deputy City Clerk
Jana Spellman, Senior Executive Council Asst.
Jeannie Dines, Recorder

1. ROLL CALL

Deputy City Clerk Linda Hynd called the roll. All elected officials were present.

2. APPROVAL OF AGENDA

COUNCIL PRESIDENT PETSO MOVED, SECONDED BY COUNCILMEMBER BUCKSHNIS, TO ADD AS AGENDA ITEM 7A, PROPOSED ORDINANCE ADOPTING A MORATORIUM ON MARIJUANA DISPENSARIES. MOTION CARRIED UNANIMOUSLY.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO APPROVE THE AGENDA IN CONTENT AND ORDER AS AMENDED. MOTION CARRIED UNANIMOUSLY.

3. APPROVAL OF CONSENT AGENDA ITEMS

Councilmember Buckshnis requested Item D be removed from the Consent Agenda.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER YAMAMOTO, TO APPROVE THE REMAINDER OF THE CONSENT AGENDA. MOTION CARRIED UNANIMOUSLY. The agenda items approved are as follows:

A. APPROVAL OF CITY COUNCIL MEETING MINUTES OF AUGUST 6, 2013

- B. APPROVAL OF CLAIM CHECKS #203614 THROUGH #203769 DATED AUGUST 8, 2013 FOR \$967,970.14 AND CHECKS #203770 THROUGH #203918 DATED AUGUST 15, 2013 FOR \$282,492.14. APPROVAL OF PAYROLL DIRECT DEPOSIT & CHECKS #60351 THROUGH #60378 FOR \$478,789.50, BENEFIT CHECKS #60379 THROUGH #60390 AND WIRE PAYMENTS OF \$211,550.74 FOR THE PERIOD JULY 16, 2013 THROUGH JULY 31, 2013**
- C. ACKNOWLEDGE RECEIPT OF CLAIMS FOR DAMAGES FROM SOUVONNAH RAMSEY (\$5,400) AND YOON KIM (AMOUNT UNDETERMINED)**
- E. REPORT ON BIDS OPENED JULY 30, 2013 FOR THE 224TH ST. WATERLINE REPLACEMENT PROJECT AND AWARD OF CONTRACT TO EARTHWORK ENTERPRISES, INC. IN THE AMOUNT OF \$79,114.13**
- F. REPORT ON BIDS OPENED AUGUST 1, 2013 FOR THE 2013 SEWERLINE REHABILITATION PROJECT AND AWARD OF CONTRACT TO INSITUFORM IN THE AMOUNT OF \$135,344.74**
- G. TRANSFER AND HOLD HARMLESS AGREEMENT FOR POLICE DOG DASH TO SERGEANT JOSH MCCLURE**
- H. AUTHORIZATION OF ADDITIONAL CONSTRUCTION FUNDING FOR THE 76TH AVENUE W WATER MAIN REPLACEMENT PROJECT**

Item D. JUNE 2013 BUDGETARY FINANCIAL REPORT

Councilmember Buckshnis asked Finance Director Roger Neumaier to describe the changes made to the report. Mr. Neumaier explained the monthly and quarterly budgetary financial reports are tools used to determine how the City's is doing financially. Changes made to the report include relocating primary revenues, fund balances and expenditures to the front of the report; adding graphs for utility fees; adding comparable information from the prior year; and deleting graphs on monthly departmental expenditures.

Councilmember Buckshnis asked whether quarterly presentations will be made to the Council. Mr. Neumaier agreed he will make quarterly reports in the future.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO ACCEPT THE JUNE 2013 BUDGETARY FINANCIAL REPORT. MOTION CARRIED UNANIMOUSLY.

4. AUDIENCE COMMENTS

Ray Martin, Edmonds, referred to an email from Councilmember Buckshnis stating his input to My Edmonds News was incorrect. He stood behind his statements. He relayed Councilmember Buckshnis' comments that it was Councilmember Bloom who raised the cat issue, not her. Mr. Martin said it was his opinion that Councilmember Buckshnis was behind the cat leash issue. He offered to provide documentation regarding the history of problems on 94th Avenue West. He referred to comments about BB guns, property damage and a police report. He summarized Councilmember Buckshnis had been provided a few facts together with a lot of bologna.

Peter Laylin, speaking on behalf of the Train Horn Noise Advisory Committee, explained he and his wife purchased a new home in Edmonds about 1½ years ago very close to the railroad tracks, fully aware of the noise generated by the trains. During a trip, they noticed trains passed through Steilacoom without any horns. In discussions with their neighbors, they learned about the potential for a quiet zone and that Mukilteo had established a quiet zone. City staff indicated the City Council had previously expressed a desire to establish a train horn quiet zone in Edmonds and had done some preliminary work. The study

the City issued in April 2008 reveals substantial benefits that could be achieved with a quiet zone. Staff indicated following the financial crisis and recession in 2008, no funds were available for further work on a quiet zone and no further work was done. It was suggested he research creating a local improvement district (LID) through which the creation of a quiet zone could be funded without financial contribution from the City. His research found East Vancouver Washington recently created an LID to fund a train horn quiet zone and he felt their experience could assist Edmonds in establishing an LID. Based on the record, he assumed the Council was already persuaded of the desirability of creating a train horn quiet zone in Edmonds and the lack of funding was the only obstacle to proceeding. He urged the Council to pick up where the City left off in 2008 and to continue the work necessary to create an LID to establish a train horn quiet zone for Edmonds. He offered the committee's assistance.

Jamie Jensen, Mukilteo, attorney representing Hon and Regina Park, Edmonds, explained their plat, Anglers Crossing, has been approved. A buyer who wants to develop the property has been found; purchase of the City parcel is still outstanding. A request was made in March to purchase the parcel; the City has done an appraisal of the parcel but no action has occurred. He asked if there was something they should be doing to move the process forward. Mayor Earling invited Mr. Jensen to contact him tomorrow to briefly discuss the matter. He advised the Council has had executive session regarding the matter. Mr. Jensen relayed his understanding there had been some discussion about the effect of the vacant parcel on the creek in the area and that the City may want the parcel to remain vacant. He expressed their willingness to work with the City and their desire to move forward with the plat.

Val Stewart, Edmonds, relayed her discovery after work today that the house across the street had been taken down. A trained sustainable building advisor, she is aware there are other options to demolishing a building such as de-construction. She was uncertain whether the City informs builders and property owners that de-construction is an option. She commented no notice to the neighbors when a building is demolished; Bellingham provides notice to neighbors. Notice would give neighbors an opportunity to assist with de-construction. Seattle uses King County green tools that describe options and alternatives to demolition such as salvage and de-construction which can result in cost savings. The house demolished in her neighborhood was built in the 1930s and could have been preserved instead of demolishing it to build two houses on the lot. She encouraged the Council to discuss on alternatives to demolition such as salvage and de-construction as part of sustainable building practices.

Roger Hertrich, Edmonds, recalled discussion at last week's Council meeting regarding the community service director. He referred to a public hearing regarding step-backs where a change in building heights from 25+5 feet to 30 feet was not advertised. He referred to a recent presentation to the Planning Board regarding RM zones and the proposal to eliminate the parking requirement in the RM zone. He expressed concern that the employee the Council was considering for the development services director position, Rob Chave, had developed that proposal. Although Mr. Chave does a good job in presentations, he leaves things out when it is convenient. Mr. Hertrich also referred to an email regarding a citizen's conversation with Mr. Chave and his attitude toward eliminating parking requirements in RM zones. He recommended the Council reconsider promoting Mr. Chave and expressed his support for interviewing several candidates and selecting the best one, stating he did not trust Mr. Chave.

Bruce Witenberg, Edmonds, said contrary to Mr. Hertrich's statements, he trusted Mr. Chave. He supported Mayor Earling's recommendation to name Mr. Chave the Development Services Director on a permanent basis. He first met Mr. Chave in 1991 when his Aurora Marketplace neighborhood was pursuing annexation; Mr. Chave was very helpful in providing facts and figures and explaining the process. The Aurora Marketplace neighborhood was successfully annexed in 1995. He worked with Mr. Chave, who staffed the Planning Board, during his two terms on the Planning Board, including two terms as Chair. He found Mr. Chave to be knowledgeable in long range planning and visioning, accessible and easy to work with. He has been a member of the Highway 99 Taskforce since its inception 10 years ago and Mr. Chave has been actively involved in staffing the taskforce. Mr. Chave has a breadth of knowledge

about the issues facing Highway 99 and its impact on the surrounding single family neighborhoods. He has also worked with Mr. Chave as a member of the Economic Development Commission and the Land Use and Business Incentive subgroup and found Mr. Chave perceptive and informed about form based codes and incentive zoning. Mr. Chave is diligently working on the code rewrite. He is well respected and works collaboratively with other directors and City staff. He is recognized as a regional leader in planning and development and has expertise in GMA and Comprehensive Plan. Mayor Earling's recommendation to permanently appoint Mr. Chave as Development Services Director also takes advantage of his institutional memory as well as saves the City approximately \$180,000 over the cost of hiring a new director. With 22 years' experience working with Mr. Chave as a citizen volunteer, he wholeheartedly supported Mayor Earling's recommendation to promote Mr. Chave to the position of permanent Development Services Director.

Ron Wambolt, Edmonds, expressed his support for the appointment of Rob Chave to the permanent position of Development Services Director. He concurred with Mr. Witenberg's comments regarding Mr. Chave. This is a rare situation where the better alternative is also the least expensive. In addition to the cost savings, it is also the safest alternative; when a person is hired, there is always a risk of making the wrong selection. Mr. Chave is well known by staff and many citizens and best known by Mayor Earling. He recalled when making his recommendation Mayor Earling said Mr. Chave has done a fabulous job. He questioned why the City would look elsewhere when there was someone like Mr. Chave who has been doing a fabulous job.

5. SWEARING-IN CEREMONY FOR SERGEANT JOSH MCCLURE

Police Chief Al Compaan commented an oath is an important public recognition of personal achievement and a personal pledge to the highest legal, ethical and professional standards critical to the law enforcement mission. He described Sergeant Josh McClure's background: he started with the Edmonds Police Department as a 17-year old police explorer in 1993, graduated from Shoreline Community College's criminal justice program and worked as an Edmonds reserve officer before accepting an entry level officer position with the Tukwila Police Department in 1998. Sergeant McClure returned to the Edmonds Police Department in August 1999 as a full-time officer. He has served as a narcotics detective and field training officer and from 2006 until last month was one of Edmonds two K9 officers working nights with his partner Dash. Sergeant McClure and Dash were certified as a Master K9 team for the past three years. Sergeant McClure and Dash also performed a significant public relations function for the department, providing K9 ridealongs for community members and doing K9 demonstrations at numerous community events, most recently Edmonds Night Out.

Sergeant McClure was promoted to corporal in May 2011, holding that rank until his promotion to sergeant. Sergeant McClure received letters of commendation, awarded to employees who perform noteworthy acts or provide exemplary service, in 2004, 2007 and 2008. He was the Edmonds Police Department Officer of the Year in 2007 and received the City of Edmonds Distinguished Service Award and Police Medal of Valor in 2008. Chief Compaan recognized members of Sergeant McClure's family including his wife Kellie, daughters Kiley and Ashton, brother Jeremy, and in-laws Kathy and John Herrington.

Chief Compaan administered the oath of office to Sergeant McClure. Sergeant McClure's daughter Ashton pinned his badge. Chief Compaan presented Sergeant McClure with a framed Certificate of Promotion.

Sergeant McClure identified another family member in the audience, his aunt Carol. Sergeant McClure thanked the Police Department for the honor of earning this promotion. He recognized there were a lot of people in the room that he owed thanks. Being part of the department since the age of 17, he has been on ridealongs with many of the people in the room. He thanked Assistant Chief Jim Lawless who has been a

mentor to him and Sergeant Mike Richardson who used to take him on ridealongs as a 17-year old and now provides the best professional advice. He commented as a leader it is no longer about him but about those he leads. The true definition of a leader is his wife Kellie who constantly encourages him.

6. PUBLIC HEARING REGARDING POSSIBLE AMENDMENT OF ANIMAL CONTROL CODE PROVISION ECC.5.05.050, RUNNING AT LARGE

Mayor Earling opened the public participation portion of the public hearing.

Mac Kenny, Edmonds, provided a list of reasons that allowing cats to run at large was a bad idea. First, referring to a City of Edmonds publication, when it rains, pet waste is washed into drains and eventually discharged untreated into creeks, Lake Ballinger and the Puget Sound. Pet waste is raw sewage and contains harmful organisms that can make children sick and contaminate water. Pet waste is one of the leading causes of surface water contamination. Second, the Center for Disease Control website states people with compromised immune systems such as those on chemotherapy, the elderly, AIDS/HIV, congenital immune deficiencies, pregnant women, organ or bone marrow transplant recipients are affected by cat feces. People can be infected by eating food, drinking water or accidentally swallowing soil that has been contaminated with infected cat feces. Third, the proposed amendment indicates only licensed, spayed or neutered cats can roam freely. There is no evidence that licensed, spayed or neutered cats produce less waste material. Fourth, many running at large cats are killed, maimed or injured by cars, dogs, other cats, wildlife, and poisons. Fifth, none of the reasons for allowing cats to run at large outweigh citizens' health, cats' safety and healthy, clean vegetables from his garden on his private property.

Sherri Kenny, Edmonds, asserted the Council was failing to acknowledge a flagrant disregard for public health and safety and presenting a solution that was not a solution. When this issue was last discussed, Councilmember Buckshnis and Councilmember Peterson demonstrated they cared about the health and safety of Edmonds citizens. She found the remaining Councilmembers' flagrant disregard for public safety unacceptable. She relayed that cat feces harbor pathogens, bacteria and parasites. The difference between fertilizing with cow or horse manure was those animals do not eat other animals who may carry pathogens, bacteria and parasites or even the plague. A member of the healthcare industry, she relayed that some colleagues chose to purchase property outside Edmonds where they felt their right to personal safety would be better safeguarded. Their purchase of property totaling \$1.8 million represents lost tax revenue to Edmonds. She relayed seeing a toddler running in the grass at an Edmonds park and a cat defecating a few feet away, suggesting that would not be good marketing material for the City.

Cynthia Hodges, an attorney with a background in environment and natural resources law, said her two cats enjoy the outdoors in a cage on her deck where they are safe and other animals are safe from them. She spoke in favor of the amendment to the running at large statute. Cats are invasive species and threaten to destabilize the ecosystem. It is estimated 100 million cats kill over a billion small mammals and hundreds of millions of birds each year in the United States; a single free roaming cat may kill as many as 100 or more birds or mammals per year. Feeding cats does not reduce their predatory behavior. Many of the animals cats prey on are federal and state protected animals that are threatened or endangered. Cats also compete with native predators. Federal wildlife laws protect species such as migratory birds and animals listed under the Endangered Species Act. The ESA prohibits a taking of any listed fish or wildlife; a take includes harm or kill. The U.S. Fish and Wildlife Service defines harm as kills or injures wildlife and may include habitat modification or degradation. A free roaming cat that kills or injures a listed animal may be a taking under ESA. The City may be liable under Section 9 of the ECA for allowing cats to run at large and kill listed animals. She cited applicable Massachusetts and Florida cases.

Ray Martin, Edmonds, expressed support for draft 2, viewing it as a reasonable compromise. His second choice was to do nothing. He offered to share his extensive knowledge on the history of cat trapping, the cat leash law, etc. in the 94th Avenue West neighborhood.

Cheri Zehner, Edmonds, recalled she testified five years ago regarding the issue of free roaming cats; she supports controlling free roaming cats. She has a master's degree in public health and worked for Seattle-King County Health Department for 10 years and was familiar with diseases that can be transmitted from cats to humans, most significantly toxoplasmosis which can be transmitted by cat feces infected with toxoplasmosis. Pregnant women are cautioned not to change cat litter boxes due to the threat of infection with toxoplasmosis which can be transmitted to the fetus. She referred to a National Geographic article about Jaroslav Flegr who is researching toxoplasmosis in humans and his findings that the latent toxoplasmosis parasite is causing mental disorders. Other studies show higher accident rates with people who have latent toxoplasmosis. Studies have found an increase in sea otters' exposure to toxoplasmosis due to cat feces in stormwater runoff entering Puget Sound and contaminating shellfish. She dispelled the myth that cats are effective at catching rodents; in fact outdoor feeding as well as feces attract rodents. She submitted written material.

Eleanor Corner, Edmonds, addressed the sentimentality issue related to cats. A cat owner for 35 years, she used to let them roam freely outside. The evolution of understanding related to companion animals has been delayed as it related to cats versus dogs. In the past, dogs were allowed to roam freely; laws related to containing dogs were followed by laws requiring owners to pick up their waste. Cats have been allowed to roam freely; however, studies show cats do better when living in a safe, indoor environment. She urged the Council to support containment of cats.

Alan Mearns, Edmonds, also representing the Pilchuck Audubon Society, described his monitoring of neighborhood birds and wildlife for two decades. Since 2005, the number of species in his yard have declined due to cutting tall trees, construction, window kills, climate change and house cat predation. He stopped letting his cats outside 10 years ago but one of his neighbors' cats preys on birds in his yard. A biologist for NOAA that protects birds from oil spills, a literature review of house cat predation retrieved over 75 papers on the subject. A study published in January 2013 concluded outdoor cats kill 434 million – 1.1 billion US birds each year; many more than NOAA responds to in oil spills. PAWS and other wildlife rehabilitation centers have literature on ways homeowners can keep their cats happy and occupied such as outdoor cat enclosures. He relayed his and Pilchuck Audubon Society's support for renewing City regulations requiring residents to keep cats indoors or contained. He provided written materials.

Dr. Robert Chaffee, Edmonds, spoke in favor of reinstating the phrase, "no animal shall be running at large" into the Edmonds animal control code. According to the Humane Society of the United States, a free roaming cat can be expected to live approximately 5 years; a cat that lives exclusively indoors can often live 17 or more years. Threats to free roaming cats include automobiles; poisoning from lawn chemicals, antifreeze or rodent poisons; animal attacks by dogs, other cats and other wildlife; human cruelty, abuse, harm and death; and being caught in traps set for other animals. Free roaming cats are also largely responsible for cat overpopulation. Cats are subject to multiple diseases, a few of which can be spread to humans including the plague and rabies. Cats that stay at home live healthier, longer lives than free roaming cats. He urged the Council to return to the old animal control policy.

Debbie McCallum, Edmonds, referred to articles regarding the destructive nature of cats on the wildlife population. While other cities and nations are strengthening laws regarding cat containment, the City Council made the irrational decision to abolish the ordinance passed in 2007 after many months of testimony and a cost of \$18,000 to the City. Most Councilmember indicated they did not understand and were given erroneous information about its enforceability from a public employee who indicated to her today that he misspoke. Citizens should not be forced to undertake the task of keeping a neighbor's cat off their property; it should be the responsibility of a pet owner to keep their cat safely contained. Cat owners who chose to ignore a trespassing pet that hunts on their property, turning garden beds and children's play areas into litter boxes or spreading diseases, should at a minimum think about the cat's welfare. She

encouraged the Council to read PAWS' philosophy. She demanded the Council place human and property rights above trespassing pets. The 2007 ordinance banning cats running at large was functional, effective and enforceable.

Mark MacDonald, Edmonds, relayed his shock when he learned an earlier amendment to include cats in the running at large ordinance was overturned by the Edmonds City Council in large part because not enough tickets had been written to warrant the revision to the ordinance. Laws and ordinances are enacted for the safety of the population, not based on the number of citations written. The 2007 amendment to include cats in the running at large ordinance was based on expert testimony that included veterinarians and representatives of PAWS who provided facts about increased maiming and death of cats that are allowed to run at large. He encouraged the Council to review the testimony provided in 2007, pointing out that testimony and much of the testimony presented tonight is from professional experts, not just personal opinion from pet owners. Experts have cited the dangers from cat feces in gardens, roaming cats violating trespass laws, and dangers to wildlife caused by uncontained cats. He summarized the Council had heard enough expert testimony to reinsert cats in the running at large ordinance. A vote to continue to exclude cats from the running at large section of the animal control code showed a Councilmember refused to cast his/her vote based on fact but instead vote based on personal bias or because they were beholden to someone else. If the Council votes to exclude cats from the running at large section of the animal control code, they opened the City to potential lawsuits by any non-cat owner within the City's boundaries who became ill from gardening in ground poisoned by cat fecal matter and show willful disregard of human health and safety. He urged the Council to vote to reinsert cats in the running at large section of the animal control code.

Anne Meier, Edmonds, expressed support for all pet owners being responsible for their pets. She circulated a photograph of cat hair on her outdoor furniture from someone else's cat. She questioned the Council spending time debating whether someone should be responsible for their own pet.

Victor Eskenazi, Edmonds, (Esperance), acknowledged the frustration of people who find animal waste on their property. He does not have any pets because he is not in a position to take responsibility for a pet. Recognizing it is not the City's responsibility to protect a citizen's property from animals, he recommended pet owners be responsible for their animals' actions.

Hearing no further comment, Mayor Earling closed the public participation portion of the public hearing.

Councilmember Fraley-Monillas referred to the minutes of a year ago where Assistant Police Chief Jim Lawless indicated this was an unenforceable part of the code. Assistant Chief Lawless said the issue was passive versus active enforceability and his response a year ago may not have been clear. The Police Department is either responsive or proactive in their approach. The point that he was trying to make regarding enforceability of the ordinance as it existed was the Police Department's inability to actively enforce it but rather be responsive.

Councilmember Fraley-Monillas said when this was discussed a year ago, she voted against changing the ordinance to exclude cats because there had not been a public hearing. It was her understanding that since then there had been a number of complaints regarding cats in people's yards. She pointed out changing the ordinance would not stop cats from roaming; it will be citizens' responsibility to call animal control when problems arise. Assistant Chief Lawless answered it will be the pet owners responsibility to care for their pet regardless of the species and citizens can call animal control regarding animals on their property. He agreed more often than not animal control's response would be reactive rather than active.

Councilmember Buckshnis pointed out under the current ordinance cats can roam free without any intervention from the Police Department. Assistant Chief Lawless agreed, advising there is currently a

nuisance provision that requires three neighbors to sign a petition about an animal and then enforcement action can be taken.

Councilmember Buckshnis pointed out she was not on the City Council in 2007 and she had nothing to do with the cat leash law. She disagreed the issue was about leashing cats, the issue was cat containment and preventing cats from roaming at large. This issue was brought up at the Public Safety Committee which is chaired by Councilmember Bloom. Her interest was in due process; the revision to the 2007 law occurred without public participation.

COUNCILMEMBER FRALEY-MONILLAS MOVED, SECONDED BY COUNCILMEMBER PETERSON, TO ADOPT ORDINANCE NO. 3937 (ATTACHMENT 7), AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ECC 5.05 TO REVISE THE “RUNNING AT LARGE PROHIBITED” PROVISION OF THAT CODE SECTION.

Councilmember Fraley-Monillas said responsible pet owners need to be responsible for all their pets. This section does not address specific animals. She does not own any pets and does not wish to have other people's pets on her property. She encouraged the Council to pass the ordinance.

Council President Petso clarified the ordinance Councilmember Fraley-Monillas referred to in her motion deleted the phrase “with the exception of cats.” Councilmember Fraley-Monillas agreed.

Councilmember Bloom said she would vote against the ordinance. She has no cats or dogs but has not seen any change in her neighborhood or the City since the previous ordinance prohibiting cats roaming at large was passed. This ordinance is based on the belief that cats and dogs are exactly alike; she has owned cats and dogs and knows they are not alike. She will only support the ordinance if the people who believe cats and dogs are exactly the same will find a location, funding and design for an off leash cat park.

Councilmember Buckshnis recalled Councilmember Bloom testified in 2007 against the ordinance. She said the difference between cat and dog owners is dog owners have to walk their dogs and pick up their feces. She was recently bitten by a dog and the only treatment she required was a bandaid; if she had been bitten by a cat, a visit to the emergency room and antibiotics would have been required. She felt cats were more dangerous when they attack and therefore should not be roaming free. She supported returning to the original ordinance.

Council President Petso said she will reluctantly support the motion primarily because she believed with this tool in place animal control can do a better job of getting neighbors to work together.

Councilmember Fraley-Monillas expressed concern with pointing fingers and laying blame, pointing none of the current Councilmembers were on the Council in 2007.

Councilmember Yamamoto said he initially voted not to remove the exclusion of cats but had been convinced by the testimony. He owns a dog and two cats and does not allow them to roam freely. Dogs and cats are similar and it is important for owners to take responsibility for their pets.

MOTION CARRIED (6-1), COUNCILMEMBER BLOOM VOTING NO.

7. SALARY INCREASE TO CONTINUE RECEIPT OF COURT IMPROVEMENT ACCOUNT FUNDS

Municipal Court Judge Doug Fair explained in 2005 the legislature passed a law that allowed cities and counties with elected judges to receive funds from the state. In 2006 the Council changed his position from appointed to elected so the City could receive funds from the Court Improvement Account Fund program. That program requires cities to reimburse judges at 95% of a district court salary. The district

court salary has not changed since 2008. In 2013 the State Salary Commission approved a 2% increase in 2013 and a 3% increase in 2014 for district court judges. In order for the City to be eligible to continue to receive the funds, approximately \$12,000 - \$13,000/year, his salary must be raised by the same amount. The annual cost is described in the agenda memo.

City Attorney Jeff Taraday explained the Citizens Salary Commission sets the compensation for all elected officials including the judge. While the Commission established the salary for the Council and Mayor, they did defer the judge's salary to the Council. The Commission meets in the spring of every even numbered year; they can address the 2014 increase at that time. He suggested when the Commission meets, they are asked to tie the judge's salary to this formula.

Human Resources Reporting Director Carrie Hite explained she was the staff liaison to the Citizens Commission on Compensation for Elected Officials in 2012. She referred to the May 1, 2012 Council minutes in which the Commission deferred the judge's salary to the 95% of the district court judge and that any changes in the state salary rate be reflected in the judge's compensation for 2013 and 2014. Mr. Taraday explained that means the Council does not need to take any action; it will happen automatically. He cited RCW 35.21.015 which states any change in salary shall be filed by the Commission with the City Clerk and shall become effective and incorporated into the city or town budget without further action of the city council or salary commission. He summarized in accordance with the RCW, it would be improper for the Council to take action on the judge's salary.

7A. PROPOSED ORDINANCE ADOPTING A MORATORIUM ON MARIJUANA DISPENSARIES

Mayor Earling read the title of the ordinance: An ordinance of the City of Edmonds, Washington, relating to collective gardens and the recreational use of marijuana, establishing an immediate emergency moratorium on the siting, establishment and operation of any structures or uses relating to collective gardens, marijuana production, marijuana processing, or marijuana retailing, to be in effect until the City of Edmonds adopts zoning regulations addressing such marijuana uses, and establishing an immediate emergency moratorium on the submission of any business license applications for such uses, setting six months as the effective period of the moratorium, to allow the Washington State Liquor Control Board an opportunity to complete its rulemaking for the licensing of such uses and to allow the City to study the secondary land use impacts of such uses, establishing the date of the public hearing on the moratorium and declaring an emergency.

Mayor Earling explained he asked the City Attorney to prepare the ordinance. With the passage of I-502, there is a series of new regulations. With the recent news that the Liquor Control Board extended 90 days for additional rulemaking consideration, it was appropriate for the City to take this action immediately.

Councilmember Buckshnis agreed this was appropriate, noting the State of Washington needs time and the City needs time.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO ADOPT ORDINANCE NO. 3938, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, RELATING TO COLLECTIVE GARDENS AND THE RECREATIONAL USE OF MARIJUANA, ESTABLISHING AN IMMEDIATE EMERGENCY MORATORIUM ON THE SITING, ESTABLISHMENT AND OPERATION OF ANY STRUCTURES OR USES RELATING TO COLLECTIVE GARDENS, MARIJUANA PRODUCTION, MARIJUANA PROCESSING, OR MARIJUANA RETAILING, TO BE IN EFFECT UNTIL THE CITY OF EDMONDS ADOPTS ZONING REGULATIONS ADDRESSING SUCH MARIJUANA USES, AND ESTABLISHING AN IMMEDIATE EMERGENCY MORATORIUM ON THE SUBMISSION OF ANY BUSINESS LICENSE APPLICATIONS FOR SUCH USES, SETTING SIX MONTHS AS THE EFFECTIVE PERIOD OF THE MORATORIUM, TO ALLOW THE WASHINGTON STATE LIQUOR CONTROL BOARD AN OPPORTUNITY TO COMPLETE ITS RULEMAKING FOR THE LICENSING OF SUCH USES AND TO ALLOW THE CITY TO STUDY THE SECONDARY

LAND USE IMPACTS OF SUCH USES, ESTABLISHING THE DATE OF THE PUBLIC HEARING ON THE MORATORIUM AND DECLARING AN EMERGENCY.

Councilmember Buckshnis commented everyone will be looking at how Washington State handles this law. She personally preferred to “tax the heck out of it” to generate additional revenue. The State and the City need time to do things thoughtful because it has the potential to change the face of Edmonds.

Councilmember Peterson did not support an emergency moratorium without notice to the public even though he understood the reasoning. If the ordinance passes, he hoped a public hearing would be scheduled as soon as possible. He viewed this as an opportunity to recruit businesses and move forward in a very progressive way as the State has.

Councilmember Fraley-Monillas asked whether the ordinance include an automatic repeal of the moratorium after six months. City Attorney Jeff Taraday explained the ordinance has a provision that requires the Council to take action to terminate the moratorium. He read Section 5 of the ordinance, “Duration of Moratorium. The moratorium imposed by this Ordinance shall commence on the date of the adoption of this Ordinance. As long as the City holds a public hearing on the moratorium and adopts findings and conclusions in support of the moratorium (as contemplated by Section 6 herein), the moratorium shall not terminate until six (6) months after the date of adoption, or at the time all of the events described in Section 3 have been accomplished, whichever is sooner. The Council shall make the decision to terminate the moratorium by ordinance, and termination shall not otherwise be presumed to have occurred.” Mr. Taraday clarified as the ordinance is currently drafted, the Council would need to take subsequent action to terminate the moratorium but that sentence could be revised if the Council wished. If the Council wanted a permanent ban on marijuana facilities as some cities have done, he recommended that not be done by simply leaving the moratorium in place, but rather by adopting a permanent ban.

Councilmember Bloom asked whether a public hearing was required. Mr. Taraday answered if the moratorium is adopted, a public hearing is required within 60 days of adoption. Council President Petso advised the date of the public hearing was unknown at this point, possibly September 3, 2013.

Council President Petso asked whether the moratorium could be repealed following the public hearing if the Council chose. Mr. Taraday answered this is not an interim ordinance but a moratorium; the City is not required to leave the moratorium in place for six months. Like any ordinance, it can be repealed.

MOTION CARRIED (5-2), COUNCILMEMBERS PETERSON AND FRALEY-MONILLAS VOTING NO.

8. AUTHORIZATION FOR THE MAYOR TO SIGN A GRANT ACCEPTANCE INTENT NOTICE AND GRANT AGREEMENT WITH THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY FOR A MUNICIPAL STORMWATER CAPACITY GRANT FOR \$50,000 AND A PROJECT SPECIFIC PLANNING AND DESIGN OF RETROFIT/LID PROJECT GRANT UP TO \$120,000

Stormwater Engineering Program Manager Jerry Shuster reviewed grants the City has received in the past (agenda items shown in *italics*):

Period	Type	Amount
2007-2009	Municipal Stormwater Capacity Grant	\$75,000
2010-2012	Municipal Stormwater Capacity Grant and Stormwater Retrofit or LID Planning & Design	\$178,115
2012-2015	Statewide Stormwater Grant Program – Vactor Waste Facility Retrofit	\$259,745
2013-2014	Watershed Protection and Restoration Grant – Perrinville Creek Stormwater Flow Reduction Study and Pre-Design Report	\$188,772

2013-2015	<i>Municipal Stormwater Capacity Grant</i>	\$50,000
2013-2014	<i>Stormwater Retrofit or LID Planning & Design</i>	\$120,000
	Total	\$871,632

Mr. Shuster provided examples of grant expenditures:

- Municipal Stormwater Capacity Grants
 - Compliance with Municipal Permits
 - Utility bill inserts
 - Updated codes, developed customer handouts, system mapping, and equipment purchase.
 - Maintenance – pile covers, vehicle wash, and equipment purchase
- Stormwater Retrofit or LID Projects
 - Shell Valley Emergency Access Road - porous asphalt
 - Perrinville Creek Watershed retrofit planning and predesign
 - Incorporation of LID into City Transportation projects (planning & design)

Councilmember Buckshnis commended staff for receipt of the grant. She asked whether this was the most money a city could receive. Mr. Shuster answered it was.

COUNCILMEMBER BUCKSHNIS MOVED, SECONDED BY COUNCILMEMBER JOHNSON, TO AUTHORIZE THE MAYOR TO SIGN GRANT ACCEPTANCE INTENT NOTICE AND GRANT AGREEMENT WITH THE STATE OF WASHINGTON DEPARTMENT OF ECOLOGY. MOTION CARRIED (6-0). (Councilmember Fraley-Monillas was not present for the vote.)

9. 2013 AUGUST BUDGET AMENDMENT

Finance Director Roger Neumaier explained the Council passes an annual budget in November/December of each year that governs City expenditures throughout the upcoming year. During the year, it is necessary to make adjustments to the budget. The proposed ordinance includes changes to multiple funds and departments. Several of the changes result from department analysis of their 2013 budgets as a basis for planning their 2014 budgets. Some changes are a result of policy direction and prior operational authorization from the Council. Other changes serve as a request for Council to authorize certain operational activities.

Councilmember Buckshnis asked for an explanation regarding the additional \$100,000 for the 76th Avenue project which is a Lynnwood project. Public Works Director Phil Williams agreed this is a City of Lynnwood project; Lynnwood is installing a large diameter sewer line on 76th Avenue, a street shared by Edmonds and Lynnwood. Since Lynnwood was tearing up a great deal of 76th Avenue followed by restoration, Edmonds wanted to piggyback on their work and replace Edmonds' waterline. The increased cost is due to change orders and claims for equitable adjustment as a result of changed conditions. The change is the discovery of contaminated soil; apparently 76th Avenue was an oiled road in the past years that resulted in a 6+ inches of contaminated soil two feet below the surface of the base material. That soil is being removed and disposed of in accordance with State regulations and replaced with clean fill. The same thing must be done for the City's waterline. In addition there were old cedar logs in a number of locations that were used in the past to form bridges over soggy places. A change order was executed for \$48,000 to pay for the City's share of the problem. Original Council approval of the project included \$53,000 in management reserve to pay for change orders; the first change order was \$48,000 and the project is nowhere near completion. The requested additional \$100,000 in spending authority will be used for any future change orders but will only be spent if necessary. He anticipated there would be other change orders.

Councilmember Buckshnis referred to page 21, an amendment in the amount of \$250,000, \$128,800 to cover the negative balance in the fund and \$121,200 for future Council authorized settlements. She asked whether the intent was to bring the Risk Management SubFund up to 2% of the General Fund or was this

amount was satisfactory. Mr. Neumaier answered the intent was to fully fund it as part of the 2014 budget. It could be done sooner if the Council wished. Councilmember Buckshnis asked if there would be a need for additional funds based on pending litigation. City Attorney Jeff Taraday recommended it be increased somewhat.

Councilmember Buckshnis referred to the Mayor's increase and asked why in the past the Council was allowed not to approve a salary increase for the Mayor and this year it was automatic. Mr. Taraday answered RCW 35.21.015 gives the City the authority to create a Citizens Commission on Compensation for Elected Officials. When the Commission was created and the ordinance adopted creating that Commission, it was not done consistent with State law. State law trumps City code whenever there is an inconsistency between City ordinance and State law. The City code says the Commission makes a recommendation and the Council takes action on the recommendation which suggests the Council has some discretion in accepting or not accepting the Commission's recommendation. The RCW (subsection 3) states any change in salary shall be filed by the commission with the city clerk and shall become effective and incorporated into the city or town budget without further action of the city council or salary commission. State law also states (subsection 8) the action fixing the salary by a commission established in conformity with this section shall supersede any other provision of state statute or city or town ordinance related to municipal budgets or the fixing of salaries.

Councilmember Buckshnis asked whether the code will be changed to delete the language regarding the Council considering the Commission's recommendation. Mr. Taraday agreed it would be prudent to amend the code prior to the Salary Commission convening in spring 2014.

COUNCILMEMBER PETERSON MOVED, SECONDED BY COUNCILMEMBER FRALEY-MONILLAS, TO ADOPT ORDINANCE NO. 3939, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ORDINANCE NO. 3920 AS A RESULT OF UNANTICIPATED TRANSFERS AND EXPENDITURES OF VARIOUS FUNDS. MOTION CARRIED UNANIMOUSLY.

10. BUDGET APPROACHES AND RECOMMENDED FUND BALANCE POLICY

Finance Director Roger Neumaier explained the first step in developing an annual budget is identifying available resources. Within that context, the decision regarding how much fund balance should be set aside is a primary decision. Prior to making a recommendation to the Mayor regarding the 2014 General Fund budget, he checked with various sources including the Government Finance Officers Association (GFOA) and Moody's who rates the City's bonds for market. GFOA talks about different types of needs in a Best Practice Statement. He summarized the GFOA statement, in establishing a policy governing the level of unrestricted fund balance in the general fund, a government should consider a variety of factors, including:

- The predictability of its revenues and volatility of its expenditures
- Perceived exposure to significant one-time outlays
- The potential drain upon general fund resources from other funds as well as the availability of resources in other funds
- Liquidity (the disparity between when financial resources actually become available and when they need to be paid)
- Commitments and assignments

GFOA's statement indicates the adequacy of unrestricted fund balance in the general fund should be assessed based on the government's own specific circumstances. GFOA recommends at a minimum that general purpose governments, regardless of their size, maintain unrestricted fund balances in their general fund of 16% of regular general fund operating revenues or regular general fund operating expenditures. GFOA also states a government's particular situation often may require a level of unrestricted fund balance in the general fund significantly in excess of this recommended minimum level.

Mr. Neumaier recommended an overall general fund reserve target equal to 32% of annual revenues. The City's current policy for 16% contingency reserve focuses on one-time, non-recurring expenditures, one of the critical elements of GFOA's recommendation. It reserves 2% for risk management reserves focused on litigation-related payouts. The City's general fund policy does address fluctuation in liquidity a critical issue in an environment where revenues and expenditures do not occur on an even basis. The cyclical fluctuation which reduced fund balance from the 2012 year end fund balance by 12.5% of annual revenues by March 31 is an issue of concern.

Moody's Rating Services shared information that general fund balance as a percentage of revenue for AA rated cities of less than 50,000 residents average between 32.8% (Aa3 rated cities) and 38.7% (Aa1 rated cities). Edmonds is an Aa3 rated city, to be at a level of other Aa3 cities, Edmonds' target would be 32.8%. At the end of 2012, the City had achieved this level of fund balance. Implementation of this approach for 2014 would mean:

- To the extent that budgeted revenues and expenditures exceed 32%, the City would be able to increase its 2014 budget to the extent that budgeted yearend fund balances do not reduce the fund balance below 32%
- The budget should include an assumption of 2% of total authorized expenditures not being expended. These expenditures should focus on one-time projects.

If the Council supports this approach, he will update the City's general fund reserve policy to include the broader policy goal of 32%.

Councilmember Buckshnis suggested applying this to Edmonds actual projects to see how fast the City runs out of money using liquidity. She noted Moody's ratings consider a variety of factors not only fund balance. It appears Mr. Neumaier's goal is an Aa1 rating. Mr. Neumaier answered that is not the primary objective. In an environment where interest rates increase significantly and a recession occurs, the City could be in a position of paying a significant amount of interest if reserves are not at this level. Councilmember Buckshnis was concerned with tying up an additional \$10 million in reserves for liquidity when that liquidity already exists as working capital/working cash. Mr. Neumaier said the entire 32% is approximately \$11 million; the additional 14% represents approximately \$5 million.

Councilmember Buckshnis said she needed to see the numbers in order to make a determination. She recalled reviewing the reserve policies of Mukilteo, Lynnwood, Shoreline, Redmond and Issaquah; only Shoreline ties their reserves to one revenue source. Mr. Neumaier responded most cities tie their reserve policy to revenues or a percentage of expenditures. Councilmember Buckshnis summarized liquidity is part of working capital.

Councilmember Yamamoto noted the 2013 reserve was 31.5% and Mr. Neumaier's recommendation is 32%. He asked how much that ½% represents. Mr. Neumaier answered his estimates only included General Fund operating and General Fund reserves. The ½% is approximately \$150,000.

Council President Petso suggested bringing this back on a future agenda for further discussion after Councilmembers have had an opportunity to follow up with Mr. Neumaier.

Councilmember Peterson suggested including the discussion in a budget workshop.

11. DISCUSSION REGARDING CODE OF ETHICS

Council President Petso suggested due to the late hour and remaining items on the agenda items that this item be postponed to a future meeting.

Councilmember Peterson agreed with postponing this item. He was glad it had been scheduled on the agenda and materials included for Council review. He advised Councilmember Bloom, Ms. Hite and he found several excellent examples of Codes of Ethic and Codes of Conduct. Kirkland and Bellevue's code are nearly identical and likely will be used as a starting point. He suggested Councilmembers familiarize themselves with Kirkland and Bellevue's codes.

Postponing this item was also acceptable to Councilmember Bloom. She requested Councilmembers review Kirkland and Bellevue's policies, noting there are a few significant differences. She pointed out the intent to have an Ethic's Officer.

Councilmember Johnson asked about the fiscal impact of an Ethics Officer. Councilmember Peterson responded Kirkland has an Ethics Officer and they contact with a law firm. To date they have not had to utilize their services; the law firm is on standby in the event an issue arises.

Councilmember Bloom noted Kirkland and Bellevue have a City Manager form of government. The references in their Code of Ethics to elected officials do not include the Mayor.

Councilmember Buckshnis was concerned with the issue of subjectivity. She recalled former Councilmember Plunkett's concern about the subjectivity of some policies. She noted there are state laws related to ethics for Councilmembers. She commented on new behaviors she has seen this year, recognizing that people see things differently based on their backgrounds.

It was agreed to postpone this to a future meeting.

13. PROPOSAL TO RESCIND ORDINANCE NO. 3935 – AN INTERIM ZONING ORDINANCE TO AMEND THE CRITICAL AREAS ORDINANCE, SPECIFICALLY SECTIONS ECDC 23.40.220, 23.40.320, 23.50.020, 23.50.040 AND 23.90.040, TO ALLOW DEVELOPMENT WITHIN LEGALLY ESTABLISHED IMPERVIOUS AREAS AND WITHIN BUFFER AREAS THAT ARE PHYSICALLY SEPARATED AND FUNCTIONALLY ISOLATED FROM AN ASSOCIATED CRITICAL AREA

Councilmember Bloom explained when she reviewed the issue more carefully, she apologized to the Planning Board for sending the matter to them prematurely. Her concerns are related to the structure language versus development footprint as well as physically separated and functionally isolated. The language defines legally established structures or similar circumstances and suggested if something was functionally isolated and physically separated it did not serve to protect the wetland from adverse impacts of development. The question then arises if it does not protect the wetland from adverse impacts of development, can enhancement be enforced. She pointed out physically separated and functionally isolated are not clearly defined and impervious surfaces are too broadly defined and include gravel roads as well as compacted surfaces. In addition the enhancements are not clearly defined. Mr. Chave indicated to her that he preferred to wait until 2015 to clarify the enhancements.

Councilmember Bloom was concerned that rushing to pass the ordinance due to two projects could possibly result in unintended consequences. In particular functionally isolated and physically separated could affect numerous properties in the City, not just the spray park. For those reasons, she reconsidered her vote and asked for this to be scheduled on the agenda. She suggested the Council rescind the ordinance and bring back the amendments at a future meeting as soon as possible.

COUNCILMEMBER BLOOM MOVED, SECONDED BY COUNCIL PRESIDENT PETSO, TO RESCIND ORDINANCE NO. 3935.

Councilmember Buckshnis expressed concern with the lack of transparency on this item. When she left Friday, the packet did not include this item. The discussion occurred between two Councilmembers and

the City Attorney. This was an issue for the Planning Board to consider. She emphasized the intent of the original ordinance was for the code to reflect Best Available Science as it relates to structures. Repealing the ordinance will potentially cost the City time and money and will affect the timing of the spray park.

Councilmember Peterson did not support the motion. There were open and frank discussions previously and a great deal of information presented on two separate occasions. Sometimes Councilmembers may not be happy with the end result of the process but the Council followed the proper process. Unless there were extenuating circumstances that the Council had not been made aware of, he did not see a reason to rescind the ordinance. He suggested Councilmembers respect the process and even if they disagreed or wanted a redo, it was not always the best course of action.

Council President Petso commented on the process, pointed out this was the Council's first opportunity under Roberts Rules to rescind a motion. She explained when Councilmember Bloom indicated her interest in changing her vote, she consulted Roberts Rules and followed the procedure. That procedure includes notice of the intent to rescind in the meeting notice which was done on Friday. There was still time to amend the agenda on Friday and City Clerk Sandy Chase created the amended agenda Friday afternoon. She has been working with Mr. Lien and Ms. Hite on the topic and Councilmember Bloom has been meeting with staff. She mentioned the topic to at least two other Councilmembers in conversation. Everyone is working hard to do this right without messing up the spray park project. It may be that the projects costs more money or needs to be redesigned or that the Council cannot wait for the Planning Board's expedited review and staff returns with a different proposal. The motion to rescind the interim ordinance does not stop the Council or staff from working on the issue or the Planning Board from working on a permanent ordinance. Rescinding the ordinance will stop applications and give the Council and Planning Board more time to work with staff. She noted paving within critical area buffers is a big deal and the City must proceed carefully. She was happy with the effort to follow the process under Robert Rules. She will support the motion to rescind the interim ordinance.

Councilmember Fraley-Monillas asked whether a motion to reconsider or rescind was appropriate. City Attorney Jeff Taraday answered there is a Roberts Rules process to place the matter on the agenda. To the question of how to repeal an ordinance, Mr. Taraday explained an ordinance is repealed via the adoption of another ordinance. To the extent a majority of the Council desires to repeal the ordinance, there is an ordinance on the City's Z drive that would accomplish that. The proper motion to undo the interim ordinance is a motion to approve the ordinance to repeal.

Councilmember Buckshnis pointed out Councilmember Bloom's motion was to rescind the motion. Mr. Taraday explained rescind is the Roberts Rules term and repeal is the RCW term. He preferred the Council use the term repeal. He interpreted the motion to be to repeal the motion. If the motion is interpreted as a motion to adopt an ordinance that repeals the interim ordinance, that ordinance should be presented to the Council.

Councilmember Bloom explained her intent was to repeal the ordinance that was passed two weeks ago and ask staff to return with an amended ordinance. Mr. Taraday summarized the options:

1. Do nothing
2. Repeal the interim ordinance adopted on August 6
3. Amend the interim ordinance adopted on August 6 (two versions available)

Councilmember Buckshnis pointed out the interim ordinance addressed making the critical areas ordinance consistent with BAS. The discussion now is adding more teeth to the new ordinance. Mr. Taraday clarified the motion on the floor is to repeal the August 6 interim ordinance.

Council President Petso asked whether the preferred action would be a motion to adopt the ordinance in the packet that effectively repeals the interim ordinance. If the Council's intent is to repeal the August 6

interim ordinance, Mr. Taraday recommended a Councilmember move the ordinance displayed on the screen. He summarized repealing an ordinance requires adoption of an ordinance that repeals the original ordinance.

COUNCILMEMBER BLOOM WITHDREW HER MOTION WITH THE AGREEMENT OF THE SECOND.

COUNCIL PRESIDENT PETSO MOVED, SECONDED BY COUNCILMEMBER BLOOM, TO ADOPT ORDINANCE NO. 3940, AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, REPEALING INTERIM ORDINANCE NO. 3935, WHICH AMENDED THE CRITICAL AREAS ORDINANCE, SPECIFICALLY SECTIONS EDC 23.40.220, 23.40.320, 23.50.040 AND 23.90.040, TO ALLOW DEVELOPMENT WITHIN LEGALLY ESTABLISHED IMPERVIOUS AREAS AND WITHIN BUFFER AREAS THAT ARE PHYSICALLY SEPARATED AND FUNCTIONALLY ISOLATED FROM AN ASSOCIATED CRITICAL AREA.

Recognizing this may be the proper process in Roberts Rules, Councilmember Peterson pointed out the Council is voting on an ordinance that neither they nor the citizens of Edmonds have seen before now and that did not satisfy his desire for transparency and public process.

Councilmember Bloom took issue with Councilmember Peterson's reference to transparency, relaying that this was a transparent process. Under Roberts Rules, a Councilmember has the option to change their mind which is what she did. She spent a great deal of time talking to staff as well as spoke to the Planning Board. She relayed Mr. Lien's indication that the interim ordinance could potentially allow an increase in impervious surface in wetland buffers in other parts of the City. She did not understand why Councilmember Peterson did not feel this was a transparent process when everything had been done to make it transparent. The interim ordinance came to the Council without approval of the Parks, Planning and Public Works (PPP) Committee; the committee recommended it go directly to the Planning Board. When it was presented to the Council, an interim ordinance was proposed. Her primary concern was making changes of this degree to the critical areas ordinance without fully considering the unintended consequences that may result. She found Councilmember Peterson's comments that it was not transparent very offensive, pointing out this is as transparent as it gets.

Councilmember Peterson appreciated that it was transparent to Councilmember Bloom because she had been working on it for the last several days. He has not; this is the first time he has seen it. The interim ordinance was considered over two meetings so that staff could provide additional information. If this had not been done at the last minute, he still would not support it because he believed in the action the Council took previously. One of the reasons he did not support the motion was while Councilmember Bloom, Council President Petso and Mr. Taraday have done a lot of work and talked with staff, he was not briefed on it and there was nothing in the packet. The last minute nature of this item raised his concern with transparency. If this had been scheduled on the agenda and he had time to have his questions answered, that would be transparent. He summarized it has been transparent for a few but not all.

Councilmember Bloom pointed out it had been on the agenda since Friday. Councilmember Peterson responded there was no supporting documentation in the packet. What the Council is voting on was not included in the packet.

Councilmember Buckshnis explained after the PPP Committee meeting forwarded the issue to the Planning Board, President Petso decided to bring it to full Council. This is an interim ordinance; it is on a fast track for review by the Planning Board. She objected to repealing ordinances on the fly, preferring to wait for the Planning Board's review. She preferred to allow the spray park project to proceed, commenting this will impact the timing, budget and scope of that project.

COUNCILMEMBER FRALEY-MONILLAS CALLED FOR THE QUESTION. MOTION FAILED FOR LACK OF A SECOND.

Council President Petso said the PPP Committee forwarded this matter to the Planning Board without coming to full Council. The first the Council heard of it was during reports on committee meetings. Some people were uncomfortable with the two committee members making the decision to send it to the Planning Board so she made a decision to include it as a discussion item on a Council agenda. When it was scheduled, it was no longer a discussion item but included an interim ordinance. She asked the City Clerk to remove the interim ordinance from the agenda. During the discussion item, staff indicated they would present an interim ordinance the following week. At that meeting, the Council voted 4-3 to approve the interim ordinance. One member of the four person majority changed her mind and followed the correct procedure to bring it back to the Council.

UPON ROLL CALL, MOTION CARRIED (4-3), COUNCIL PRESIDENT PETSO AND COUNCILMEMBERS FRALEY-MONILLAS, BLOOM AND JOHNSON VOTING YES; AND COUNCILMEMBERS YAMAMOTO, BUCKSHNIS, AND PETERSON VOTING NO.

12. REPORT ON CITY COUNCIL COMMITTEE MEETINGS OF AUGUST 13 AND 19, 2013

Finance Committee

Councilmember Yamamoto reported on the following items considered by the committee:

- Salary Increase to Remain Eligible for State Court Improvement Account Funds – addressed on tonight's agenda
- Discussion regarding Authorization to Recruit for Development Services Director – will be scheduled for full Council discussion on a future agenda
- Discussion and Recommendation on Proposed Utility Rate Adjustments – will be scheduled for presentation to full Council
- June 2013 Budgetary Financial Report – approved on Consent Agenda
- 2013 Budget Amendment – discussed on tonight's agenda
- Sharing 2-14 Budget Approaches and Recommending Fund Balance – discussed on tonight's agenda
- Bond Sale Report
- Public comment from two citizens

Parks, Planning & Public Works Committee

Councilmember Johnson reported on the following items considered by the committee:

Forwarded for approval on the Consent Agenda:

- Interlocal Cooperation Agreement for Inter-jurisdictional Coordination Relating to Affordable Housing within Snohomish County
- Additional Construction Funding for 76th Avenue West Water Main Replacement Project
- Report on bids opened July 30, 2013 for the 224th St. Waterline Replacement Project
- Report on bids opened August 1, 2013 for the 2013 Sewerline Rehabilitation Project
- Acceptance of a Grant for Stormwater Planning and Design

Referred following to future Council meeting:

- Utility Rate Adjustments
- Five Corners Roundabout Art Selection

Carried over for further discussion:

- Harbor Square
- Street Tree Management Policy

Public comment

Jamie Jensen regarding the Angler's Crossing PRD

Public Safety & Personnel Committee

Councilmember Bloom reported on the following items considered by the committee:

- Transfer and Hold Harmless Agreement for Police Dog Dash to Sergeant Josh McClure – approved on the Consent Agenda
- Revisions to Edmonds City Code Chapter 2.10 – will be scheduled for full Council discussion on a future agenda
- Discussion regarding Authorization to Recruit for Development Services Director –will be scheduled for full Council consideration of a budget amendment related to funding of the Development Services Director.

14. MAYOR'S COMMENTS

Mayor Earling had no report.

15. COUNCIL COMMENTS

Council President Petso advised two Councilmembers have indicated they will be absent from the September 17 and 24 meetings. She asked the remaining Councilmembers to inform her whether they planned to attend both meetings. If only four Councilmembers are available for those meetings, the meetings will have a very light agenda or the meetings may be canceled.

As her attempt to finesse the committee referral directly to the Planning Board was not entirely satisfactory, Council President Petso relayed her plans to ask the Public Safety & Personnel Committee to consider whether decisions of that nature should be made at the committee level or referred to the full Council. In response, Councilmember Buckshnis questioned the purpose of having committees.

To those who saw the moving van in front of her house this weekend, Councilmember Buckshnis assured she was not moving.

Councilmember Fraley-Monillas reminded of the Volunteer Picnic on Sunday at 1:30 at City Park. She asked board and commission members to RSVP to Councilmember Johnson or Ms. Spellman. Special guests will include Mayor Earling and Council President Petso.

16. CONVENE IN EXECUTIVE SESSION REGARDING PENDING LITIGATION PER RCW 42.30.110(1)(i)

The executive session was postponed to a future meeting.

17. RECONVENE IN OPEN SESSION. POTENTIAL ACTION AS A RESULT OF MEETING IN EXECUTIVE SESSION

18. ADJOURN

With no further business, the Council meeting was adjourned at 10:00 p.m.